

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

<b>In the Matter of</b>	)	
	)	
<b>Rules and Regulations Implementing</b>	)	
<b>Minimum Customer Account Record</b>	)	<b>CG Docket No. 02-386</b>
<b>Exchange Obligations on All Local and</b>	)	
<b>Interexchange Carriers</b>	)	

To the Commission:

**Comments of:**

**THE OKLAHOMA RURAL TELEPHONE COMPANIES**

**Atlas Telephone Company  
Beggs Telephone Company  
Canadian Valley Telephone Company  
Carnegie Telephone Company  
Central Oklahoma Telephone Company  
Cherokee Telephone Company  
Chickasaw Telephone Company  
Cimarron Telephone Company  
Cross Telephone Company  
Dobson Telephone Company  
Hinton Telephone Company  
KanOkla Telephone Association, Inc.  
McLoud Telephone Company  
Medicine Park Telephone Company  
Oklahoma Telephone & Telegraph, Inc.  
Oklahoma Western Telephone Company  
Panhandle Telephone Cooperative, Inc.  
Pioneer Telephone Cooperative, Inc.  
Pottawatomie Telephone Company  
Salina-Spavinaw Telephone Company  
Santa Rosa Telephone Cooperative, Inc.  
Shidler Telephone Company  
South Central Telephone Association, Inc.  
Southwest Oklahoma Telephone Company  
Valliant Telephone Company**

**June 3, 2004**

The above-referenced Incumbent Oklahoma Rural Telephone Companies (collectively “Oklahoma RTCs”), by and through their attorneys, submit these initial comments in response to the Federal Communications Commission's ("Commission") Notice of Proposed Rulemaking requesting the Federal Communications Commission (“Commission”) adopt mandatory minimum Customer Account Record Exchange (“CARE”) obligations on all local and interexchange carriers<sup>1</sup>. The Oklahoma RTC's previously filed comments in opposition to instituting this rulemaking in the Joint Petition for Rulemaking filed by the IXC's<sup>2</sup>, and continue to strongly oppose the adoption of mandatory minimum CARE rules.

**I. IT IS PREMATURE TO CONSIDER CODIFYING MANDATORY MINIMUM CARE GUIDELINES ABSENT A FACTUAL RECORD OF EXISTING PROBLEMS WITH THE CURRENT CARE PROCESS**

As the Small Incumbent Local Exchange Carriers and PBT Telecom Inc. stated in their Comments to the IXC's Joint Petition, the IXC's have not identified any problems with inter-carrier communications with small ILECs and prior to adopting any mandatory CARE guidelines, the IXC's must demonstrate that the CARE information being furnished to them by all LECs is materially deficient.<sup>3</sup> The Oklahoma RTCs support the position that prior to the Commission establishing new rules that real problems must be clearly established, otherwise unintended consequences could result. If this occurs not only could the companies be negatively impacted, but because end-users must pay all costs, the customers may end up paying higher rates with no increase in benefits. In their Joint Petition, the IXC's do not give any specific examples that the current CARE information being exchanged is deficient in any way. Rather,

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<sup>1</sup> *In the Matter of Rules and Regulations Implementing Minimum Customer Account Record Exchange Obligations on All Local and Interexchange Carriers*; Issued in CG Docket No. 02-386 (Rel. March 25, 2004) (CARE NOPR).

<sup>2</sup> Joint Petition for Rulemaking to Implement Mandatory Minimum Customer Account Record Exchange Obligations on All Local and Interexchange Carriers Filed by AT&T Corp., Sprint Corporation, and WorldCom, Inc. on November 22, 2002 (Joint Petition).

they make broad generalizations about the current CARE process and do not state what entities are not exchanging adequate information. It is the IXC's burden of proof to demonstrate the deficiencies in the current CARE system, and they have failed to do so. Absent a factual record of the alleged problems with the current CARE system, it is premature for the Commission to consider mandatory minimum CARE rules.

The IXC's proposed one-size-fits all approach to the CARE process for all carriers is not based on facts, is inequitable and discriminatory. The Commission must realize that the RBOCs and other large carriers have thousands of employees, while the Oklahoma RTCs have as few as eight or less. The large carriers have the resources to devote entire departments to the PIC change process and the exchange of CARE information to IXCs. On the other hand, the Oklahoma RTCs have one or two employees that handle the PIC change process as well as perform other duties. The IXCs have not demonstrated any problems they are experiencing with the small LECs and until actual problems are quantified, the Commission should not establish new rules.

## **II. THE ADOPTION OF MANDATORY MINIMUM CARE STANDARDS AS PROPOSED BY THE IXC'S IS UNNECESSARY BECAUSE PROCEDURES ARE CURRENTLY IN PLACE AND ARE WORKING**

The Commission requests comment on whether mandatory minimum CARE obligations should be imposed, and whether the current system is working. The Oklahoma RTCs state that the current process is working well and exchange of customer CARE information is being provided between the LECs and IXCs, either voluntarily, or through contractual arrangements. In response to this allegation and to the FCC's request in the CARE NOPR<sup>4</sup>, The Rural RTC's contend that rather than the LECs not providing adequate CARE information, it is the IXCs that

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<sup>3</sup> See Comments of the Small Incumbent Local Exchange Carriers at page 3; and Reply Comments of PBT Telecom, Inc. at page 2.

appear not to be processing the information they receive internally and performing adequate customer care.

Currently, on a voluntary basis, the Oklahoma RTCs receive Preferred Interexchange Carrier Change ("PIC") requests from IXC's and promptly make the PIC changes in their switch. Depending on when the PIC change request is received, the RTC's accomplish this process within twenty-four hours of receipt, and usually no longer than two business days. Therefore, the IXC's PIC change requests are being made promptly by the Oklahoma RTC's. As set forth in the Joint Petition, the IXC's further complain that due to the lack of minimum CARE information, customers are placed on an IXC's network without any means by which the IXC can bill the customer.<sup>5</sup> It is ironic that this argument is made because for an IXC initiated PIC change, the customer address and billing information would be included on the IXC's LOA, or acquired by the IXC service representative via any other FCC authorized PIC change<sup>6</sup> method. If the IXC's customer contacts the LEC directly to initiate a PIC change, the customer is instructed to contact the IXC to set up their account and must acquire the appropriate Carrier Identification Code from the IXC to change providers. It is not the LEC's responsibility to manage the IXC's customer accounts, nor interfere in the relationship between their customers and their long distance carriers.

- a. Adoption of proposed rules for the exchange of additional CARE information would interfere with existing contractual arrangements between the Oklahoma RTCs and the IXCs, and is contrary to law.**

The additional CARE information the IXCs claim they need to provide 'seamless customer service' is currently being provided through contractual arrangements between LECs and the IXCs. As set forth in the Rural RTC's Initial Comments filed in the Joint Petition

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<sup>4</sup> CARE NOPR at para. 10.

<sup>5</sup> Joint Petition at p. 5.

proceeding,<sup>7</sup> the RTCs currently provide CARE information to the IXC's either pursuant to their Billing and Collection Agreements, or individual maintenance agreements. If the IXC has not entered into these agreements with the LECs, they must have a direct business relationship with their long distance customers. The IXC's currently compensate the RTCs for exchange of additional CARE information through the use of the attached sample CARE Maintenance Agreement. As an example, Salina-Spavinaw Telephone Company currently has CARE Maintenance Agreements with MCI, SBC Long Distance, Excel, Global Crossing and ALLTEL Long Distance. By virtue of these Agreements, Salina-Spavinaw provides the additional exchange of customer information the IXC's are seeking, such as Billing Name and Address ("BNA") Information, PIC change information, and customer disconnection information for a reasonable fee. It is apparent that the IXC's are only seeking codification of extensive CARE guidelines so the Oklahoma RTCs and all other carriers will perform their customer service functions for free, thus shifting both their responsibilities and costs for customer care to the LECs. The Oklahoma RTCs do not have the manpower or resources to comply with the IXC's demands absent adequate compensation.

As the Commission is aware, the pro-competitive Telecommunications Act does not require carriers to provide services without compensation. Under Section 251(b)(3), LECs have a duty to provide dialing parity to competing providers of telephone exchange and telephone toll service. This does not require the LECs to provide IXC's customer CARE information, nor provide a service to the IXC without compensation. As the Oklahoma RTCs have previously

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<sup>6</sup> 47 C.F.R. §64.1120 and § 64.1130.

<sup>7</sup> Comments of the Oklahoma Rural Telephone Companies filed January 21, 2003 at p.2.

stated, this Commission found that individual negotiated contractual agreements between competitors is consistent with the pro-competitive, deregulatory framework set forth in the Act.<sup>8</sup>

It is curious that the IXC's claim they do not have sufficient information to provide 'seamless customer service' when they should have relationships with their own customers. The adoption of the IXC's extensive and overly burdensome CARE guidelines essentially results in the Oklahoma RTCs being employees of the IXC's. The IXC's statement that mandatory CARE guidelines will be beneficial to customers and least burdensome to the carriers, including minimizing start-up costs for all carriers is false.<sup>9</sup> In essence, what the IXC's are proposing is that the Commission require LECs to provide the IXC's their customer information absent the appropriate contractual relationship with the LEC, and without compensation, thus shifting the IXC's costs and responsibilities to the LECs to manage their customer database.

### **III. NOTWITHSTANDING THE OKLAHOMA RTC'S OPPOSITION TO ADOPTION OF MANDATORY CARE GUIDELINES, IF RULES WERE ADOPTED, THE COMMISSION SHOULD NOT ADOPT THE IXCS PROPOSED GUIDELINES**

In the event the Commission finds that mandatory minimum CARE guidelines should be adopted, the *Minimum CARE Standards Document* proposed by the IXC's is overly broad and unreasonable and should not be adopted. The CARE NOPR requests comment on the IXC's proposals and the Oklahoma RTC's submit replies as follows:

- a. The adoption of the IXC proposed subset of existing OBF CARE/Industry Support Interface Guideline Transaction Code Status Indicators (TCSIs) is too broad and should not be adopted.**

Many of the Oklahoma RTCs currently use TCSI codes for exchange of CARE information per the terms of their CARE agreements. Currently, only the 0000 and 2000 series

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<sup>8</sup> *In the Matter of Quest Communications International Inc., Petition for Declaratory Ruling on the Scope of the Duty to File and Obtain Prior Approval of Negotiated Contractual Arrangements under Section 252(a)(1)*. WC Docket No. 02-89; Released October 4, 2002.

are being utilized by the LECs, and utilization of the 3000-4000 series is redundant and not necessary. The IXC's utilize the 0000 series for initiating PIC changes, or to tell the LEC what to do with their customer accounts; e.g. 0105 is utilized for a PIC change request. The LECs reply to the IXC's with the 2000 series TCSI codes. As an example, the LEC uses the TCSI code of 2004 to tell the IXC their PIC change order was received and made. The 2003 TCSI code is used to for customer initiated PIC changes. None of the 1000, 3000 or 4000 TCSI series codes are being used by the Oklahoma RTCs, and many of these codes are duplicative. The IXC's are receiving the information they need from the Oklahoma RTCs by use of the 2000 series codes. If it is the Commission's objective to create simple rules the entire telecommunications industry can comply with, then only the 0000 and 2000 series TCSI codes should be utilized.

- b. Absent a CARE Maintenance Agreement, it is the customer's responsibility, not the LEC's responsibility to notify the IXC's if a customer has changed carriers or disconnect service.**

The Oklahoma RTCs have educated their customers that it is their responsibility to contact their long distance carrier if they change carriers, or disconnect service. When telephone service is disconnected or suspended, the LECs currently advise their end-user to contact their IXC if the end-user wishes to terminate service in order to avoid incurring additional charges. Therefore, there currently exists a mechanism for notifying IXC's when customers disconnect service. When the Oklahoma RTC's customers change carriers, the customer is instructed to contact their current IXC to terminate service. The IXC's customers have a responsibility to contact their carrier and manage their own affairs.

- c. The IXC's proposed "reasonable" performance measures are totally unreasonable, overly broad, and should not be adopted.**

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<sup>9</sup> Joint Petition at pps. 7-8.

The IXC's proposed performance measures which include timeliness thresholds for the LEC transmission of CARE information to the IXCs, and 'curing' procedures for the LECs failure to submit timely and accurate CARE information to the Petitioners' expectations are unreasonable and unilateral. The IXC's proposal shifts ALL responsibility for accurate and timely CARE processing methods to the LECs. In the unfortunate event performance measures were adopted, they should apply bilaterally; to the LECs and the IXCs. The Oklahoma RTC's agree with the comments of the Small ILECs that if performance measures were adopted, they must apply equally to the IXCs.<sup>10</sup> It is curious the IXCs are proposing performance measures for everyone but themselves. Like the Small ILECs, the Oklahoma RTCs' customers also complain, quite frequently, that even though they have changed IXCs, they continue to be billed by their prior IXC. This continues to occur when the LEC has documentation that the PIC change information has been transmitted to the IXCs. The problems with the CARE process does not reside with the LECs, it is the IXCs problem.

The Oklahoma RTC's further contend that the record is void of any specific examples justifying the need for mandatory performance measures. It is the IXC's burden to demonstrate their need for these rules, and they have failed to make their case.

**d. The adoption of a national line-level database for dial-around call information is unnecessary.**

The carriers providing dial-around calling services are crying wolf because mechanisms exist for them to acquire the BNA information they claim they cannot obtain. Many IXCs now contract with clearinghouses, such as Verisign and Independent NECA Services, to bill for casual dialed calls. The IXCs send their call data to the clearinghouses, which in turn send the call rating information to the appropriate LEC or LEC billing vendor for end-user billing. The

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<sup>10</sup> See Comments of the Small Incumbent Local Exchange Carriers at page 14.



IXCs also have the option of entering into BNA agreements with the LECs. The rates for providing BNA information to IXCs are currently tariffed in NECA's FCC Tariff No. 5, in which the Oklahoma RTCs concur. Further, a national line-level data base will not resolve dial-around carriers billing problems. As this Commission is aware, the FCC's BNA rules require customer consent for disclosure of BNA.<sup>11</sup> A line-level data base would never be complete. In short, carriers such as Americatel and Intrado made a business decision to provide dial-around services, and collection for calls should have been considered. It is not the responsibility of the LECs to pay for their poor judgment.

**e. The adoption of mandatory CARE guidelines will have unintended consequences and is anti-competitive.**

As the Oklahoma RTC's stated in their Comments filed in response to the Joint Petition, pursuant to the Customer Proprietary Network Information Rules ("CPNI"), carriers may utilize the 'opt-out' approach to disclose CPNI to their affiliated entities providing communications related services.<sup>12</sup> Under the proposed CARE guidelines, the LEC notifies the IXC that serves the customer that the customer has changed LECs. In this scenario, the IXC has an affiliate that is also a CLEC. If the IXC customer has given their permission to share CPNI information, the IXC could share customer CPNI information with its affiliated CLEC to directly market the customer. This procedure could result in information being released that was not intended to be released by the customer, especially if the customer had not given express customer authorization to disclose this type of information to third parties; and the IXC has been given a competitive advantage.

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<sup>11</sup> 47 C.F.R §64.1201.

<sup>12</sup> *In the Matter of the implementation of the Telecommunications Act of 1996; and Telecommunications Carriers' Use of Customer Proprietary Network Information and Other Customer Information*, CC Docket No 96-115, Third Report and Order and Third Further Notice of Proposed Rulemaking, Released July 25, 2002.

The adoption of the proposed CARE standards will also result in an anti-competitive opportunity for IXC's that have a CLEC affiliate. These IXC's will receive customer information that other competing carriers will not, thereby giving the IXC with the CLEC affiliate a competitive advantage. The information the Petitioners are requesting the LECs submit to them discriminates against the customer and results in anti-competitive behavior for the IXC's that receive additional information.

**f. The Commission's wireline-to-wireless porting requirements do not lend support to the IXC's' request.**

In their Petition, the IXC's suggested that wireline-to-wireless portability creates potential customer confusion because customers porting their telephone number to a wireless service provider may not be able to continue using their previous IXC with their new wireless service provider. To resolve this potential for customer confusion, the IXC's suggest that the customers' *former* provider – the LEC – be required to notify the IXC that the customer's number has been ported to a new provider. The Commission should encourage informed decision-making by customers facing competitive choice by requiring the *new* provider to advise the customer of all changes that are required for their service – including education of the customer that it will no longer be able to use its existing IXC. As a result, the new provider should notify their customer that they need to disconnect service with their old IXC in order to avoid any additional charges.

**IV. RATHER THAN IMPOSE ADDITIONAL BROAD REGULATORY REQUIREMENTS, THE IXC'S SHOULD FOCUS ON CUSTOMER EDUCATION**

The IXC's should focus their attention on customer education rather than the imposition of additional broad regulations. The alleged problems the IXC's claim they are having would be solved if the IXC's would employ customer education programs like the Oklahoma RTCs do, and inform their customers that it is their responsibility to advise them when they change service

providers or disconnect service. Further, additional regulation, as proposed by the IXC's, is not in the public interest. As Commissioner Kathleen Abernathy stated in a speech on market reform at a global symposium for regulators, "I also find strict enforcement of narrowly tailored rules to be more effective than broad prescriptive rules, which prohibit whole categories of conduct, only some of which may be problematic. By relying on more enforcement mechanisms, the FCC has been able to tailor its intervention to particular circumstances, thereby allowing markets to operate with minimal regulatory distortion." Commissioner Abernathy further stated, "This brings me to my last point: the importance of educating consumers. As competition brings new choices to the market consumers can be overwhelmed and under informed....Education is essential to our ability to regulate in the public interest because only with knowledge can consumers make informed decisions."<sup>13</sup> The Commissioner is correct that broad prescriptive rules may be problematic, as the proposed IXC's CARE rules would be. The Commissioner is also correct that consumer education is essential.

## **CONCLUSION**

The Oklahoma RTCs state to the Commission that it is premature to address adoption of minimum mandatory CARE guidelines because the IXC's have not produced any evidence that the current system is not working. The Oklahoma RTCs maintain that the current system is working well, and if the IXC's desire additional information from the LECs, they may utilize CARE maintenance agreements and/or BNA agreements. The Commission's adoption of the IXC's proposed guidelines should be rejected because they are unnecessary; will benefit the IXC's bottom line at the expense of the LECs' customers; interfere with existing contractual arrangements; are contrary to the intent of the Act; do not provide for compensation to the LECs

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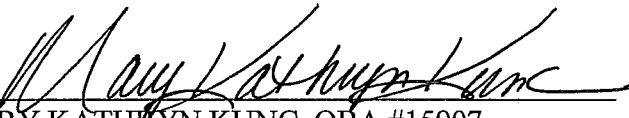
<sup>13</sup> Remarks of U.S. Federal Communications Commissioner Kathleen Q. Abernathy, "Market Reform: A Tool for Achieving Universal Access Panel"; Global Symposium for Regulators; Geneva, Switzerland, December 8, 2003.

for increased work; are unduly burdensome; and are anti-competitive. It is the Oklahoma RTC's position that rather than impose additional regulatory burdens that result in additional costs to consumers, the IXCs and regulators should focus on customer education.

Finally, the Oklahoma RTCs look forward to participating to the fullest extent in this proceeding, including the presentation of *Ex Parte* comments to further elaborate on the issues discussed herein.

Respectfully submitted,

OKLAHOMA RURAL TELEPHONE COMPANIES

By:   
MARY KATHRYN KUNC, OBA #15907  
RON COMINGDEER, OBA #1835  
KENDALL W. PARRISH, OBA #15039  
COMINGDEER, LEE & GOOCH  
6011 N. Robinson  
Oklahoma City, OK 73118  
(405) 848-5534  
(405) 843-5688 (fax)

## ACCOUNT MAINTENANCE SERVICE AGREEMENT

This agreement is made and entered into on this \_\_\_\_\_ day of \_\_\_\_\_, 2004, by and between \_\_\_\_\_ Company, \_\_\_\_\_, hereinafter called LEC, and \_\_\_\_\_ hereinafter called IXC.

### Recitals

IXC provides interlata long distance service to certain of LEC's subscribers. LEC offers an account maintenance program to IXC's serving LEC's subscribers. IXC desires to subscribe to LEC's account maintenance program. The parties have discussed the matter, agreed upon the terms and provisions of an account maintenance agreement, and have set their agreements to writing below.

### Agreements

FOR AND IN CONSIDERATION OF the mutual promises and covenants contained in this agreement, the parties agree as follows:

1. "Account maintenance service", as used herein, means the provision of updated account information for IXC's customers. Updates shall be provided by LEC to IXC weekly and will contain new installation, disconnects, and account changes in IXC's customer base, as reflected in LEC's records. The weekly account maintenance update shall include the following specific information:
  - a. Service effective date
  - b. Change in billed name
  - c. Change in billed address
  - d. Change in billed telephone number
  - e. Change in working telephone number
  - f. Addition of billed name and address
  - g. Addition of billed telephone number
  - h. Addition of working telephone number
  - i. Deletion of billed telephone number
  - j. Deletion of working telephone number
  - k. Non-Published/non-listed indicator
  - l. Business/residential indicator
2. In addition to the weekly account maintenance update provided for above, LEC shall provide IXC a complete list of IXC's entire customer base identified in LEC's records upon completion of the balloting process and thereafter each six months during the term of this agreement. Each list will include the billed name and address, billed telephone number, working telephone numbers, and a business/residence indicator for subscribers connected to IXC within LEC's operating territory.
3. IXC will receive only information for accounts which have subscribed to IXC. Account maintenance service extends to all equal access end offices in LEC's exchange area for which IXC has purchased Feature Group D access service. No information will be provided regarding lines that are subscribed to another interexchange carrier or have chosen no long distance carrier.
4. LEC will provide the account maintenance service described above in computer-generated report form. The service will be provided in standard CARE 960 format. The reports shall be mailed to the following address:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

It will be the duty of the IXC to notify LEC of changes in the mailing address.

- 5a. In consideration for the account maintenance service described above, IXC shall pay to LEC the minimum sum of \$ \_\_.00 per month which will include up to 500 customer records. For each record over 500, a fee of \$0.\_\_ per record will be assessed and postage will be added for reports with over 500 customer records. Payment will be made by the IXC semi-annually in the months of January and July of each year. The payment in January shall be for all months between July 1 and December 31 of the preceding year. The payment in July shall be for all months between January 1 and June 30 of that year. In no event shall interest or penalties be applied to invoices paid in the appropriate month. For IXC invoicing purposes, the following address shall be used:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- 5b. IXC shall, before commencement of the services described herein, forward to LEC the sum of \$ \_\_.00 as and for payment of the \$ \_\_.00 monthly minimum for 12 months. Similar payments shall be due upon each automatic renewal of this agreement.
6. The parties agree that all information concerning end users subscribed by the IXC is confidential and proprietary. Neither party shall disclose, release, make available, or divulge in any manner whatsoever and will treat as confidential, all information covered by this agreement, except as may be required to implement the terms of this agreement, to comply with the specific request of an affected end-user, or as required by law or regulatory action. The covenant and obligation of both parties to protect the confidentiality of the proprietary information described above shall survive the term of this agreement.
7. This agreement will become effective on \_\_\_\_\_ and shall continue in effect thereafter for a term of one (1) year (Initial Term). Following the initial term, this agreement shall automatically renew for successive periods of one year each; provided, however, that either party may terminate this agreement by providing 90 days prior written notice of termination to the other party.
8. Notwithstanding anything in this agreement to the contrary, the rights and obligations of the parties which by their nature continue beyond the term of this agreement shall survive the expiration or termination thereof.

IN WITNESS WHEREOF the parties have executed this Agreement on the date first written above.

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_